UNITED STATES DISTRICT COURT DISTRICT OF NEVADA RENO, NEVADA

LINDA DOWNS,) CASE NO. 3:11-CV-00885-LRH-WGC
Plaintiff,) MINUTES OF PROCEEDINGS
VS.) DATED: February 19, 2013
RIVER CITY GROUP, LLC et al.,	
Defendant(s).)))
PRESENT: HONORABLE WILLIAM G	. COBB, U.S. MAGISTRATE JUDGE
Deputy Clerk: Katie Lynn Ogden Rep	orter: FTR
Counsel for Plaintiff: Adam McMillen	
Counsel for Defendant(s): Christina Bhir	ud and Ariel Stern (obo: Wells Fargo) (Telephonically)
and Ann-Martha Andrews (obo: Minnesot	a Life Insurance Company) (Telephonically)

MINUTES OF PROCEEDINGS: MOTION HEARING

2:41 p.m. Court convenes.

I. Emergency Motion to Compel and/or for Sanctions (Dkt. #138)

The court expresses its concern with regard to the preparation of the Thomas Segalla's deposition and that the deposition was ultimately terminated. In light of the court's understanding that the parties have agreed to reschedule the deposition, plaintiff's Emergency Motion to Compel and/or for Sanctions (Dkt. #138) is **DENIED**. The cost associated with the first attempt to depose expert Thomas Segalla (February 12, 2013) will be divided equally between plaintiff and defendant Minnesota Life Insurance. The cost shall include the time spent of expert Thomas Segalla appearing for this deposition.

II. Motion to Strike Plaintiff's Untimely Designation of New Expert Witness, Or Alternatively, to Exclude Testimony of Dr. Bittker (Dkt. #144)

The court notes that, originally, there were to be simultaneous expert report disclosure dates. At the request of the parties, the dates were then staggered to allow plaintiff's disclosure first. However, the date for rebuttal expert(s) was inadvertently never set. The court indicates that it had always contemplated that there might be rebuttal expert reports. In view of this observation, the court is not inclined to agree with the defendant's argument that plaintiff's designation of Thomas Bittker, M.D., was untimely.

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After further discussion with regard to the designation of Dr. Bittker, and good cause appearing, defendant's Motion to Strike Plaintiff's Untimely Designation of New Expert Witness, or Alternatively, to Exclude Testimony of Dr. Bittker (Dkt. #144) is **DENIED without prejudice**; the court is not inclined to strike Dr. Bittker as an expert witness. The court will allow defendants the option to depose Dr. Bittker and to defer the deposition until after the scheduled settlement conference set for March 14, 2013. Furthermore, the instant motion can be renewed as a Motion In Limine.

The court directs Mr. McMillen to produce a copy of Dr. Bittker's file to defendants as soon as possible.

IT IS SO ORDERED.

3:39 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Katie Lynn Ogden, Deputy Clerk